

REMARKS

Favorable reconsideration of the subject application is respectfully requested in view of the following remarks. With the above amendment, claim 15 has been amended to remove dependence from canceled claim 8 and to more particularly define one embodiment of Applicants' invention. Support for this amendment can be found throughout the specification, in particular, at page 90, lines 17-22. No new matter has been added. It should be noted that the above amendments are made without acquiescence, and without prejudice to prosecution of any or all subject matter modified and/or removed by this amendment in a related divisional, continuation and/or continuation-in-part application.

Claims Rejected Under 35 U.S.C. § 112, first paragraph (written description)

Claims 3, 4, 11, and 15 stand rejected under 35 U.S.C. § 112 first paragraph as allegedly containing subject matter that was not described in the specification in such a way as to reasonably convey to the skilled artisan that inventors were in possession of the invention at the time the application was filed. In particular, the Action alleges that, due to the open "comprising" language of claim 18, the claims are construed to encompass genomic DNA comprising introns, exons, enhancers, promoters, etc that are not disclosed in the application.

Applicants respectfully traverse this rejection and submit that the specification provides more than adequate description of the claimed invention. Specifically, Applicants direct the Office to page 25, lines 3-10 of the application as filed where the terms "polynucleotide" and "isolated" are defined as follows:

The terms "DNA" and "polynucleotide" are used essentially interchangeably herein to refer to a DNA molecule that has been isolated free of total genomic DNA of a particular species. "Isolated," as used herein, means that a polynucleotide is substantially away from other coding sequences, and that **the DNA molecule does not contain large portions of unrelated coding DNA, such as large chromosomal fragments or other functional genes or polypeptide coding regions.** Of course, this refers to the DNA molecule as originally isolated, and does not exclude genes or coding regions later added to the segment by the hand of man. (emphasis added)

Applicants respectfully submit that the specification as filed specifically defines the claimed isolated polynucleotides so as not to encompass genomic DNA comprising introns, exons, enhancer, promoters, etc. Accordingly, Applicants submit that the claimed invention satisfies the written description requirement under 35 U.S.C. § 112 first paragraph and respectfully request that the rejection be withdrawn.

Claims Rejected Under 35 U.S.C. § 112, second paragraph (indefiniteness)

Claim 15 stands rejected under 35 U.S.C. § 112, second paragraph as allegedly indefinite for failing to particularly point out and distinctly claim the subject matter which Applicant regards as the invention. In particular, the Action alleges that claim 15 is dependent on a canceled claim.

Applicants have amended claim 15 to remove dependence from canceled claim 8 and respectfully submit that this rejection is moot in view of this amendment. Applicants respectfully request withdrawal of the rejection under 35 U.S.C. § 112, second paragraph.

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Reply to Office Action dated June 24, 2003

The Commissioner is authorized to charge any additional fees due by way of this Amendment, or credit any overpayment, to our Deposit Account No. 19-1090.

Applicants respectfully submit that the claims remaining in the application are now believed allowable. Favorable consideration and a Notice of Allowance are earnestly solicited.

Respectfully submitted,

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